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| 31780 | 7590 | 07/01/2009 | EXAMINER | |
| ERIC ROBINSON | | | CHAKOUR, ISSAM | |
| PMB 955 | | | ART UNIT | |
| 21010 SOUTHBANK ST. | | | PAPER NUMBER | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,012

Applicant(s)

TACHIKAWA, KATSUHIKO

Examiner

ISSAM CHAKOUR

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/27/2009 has been entered.

Applicant amended claim 1 and cancelled claims 2 and 3.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102 (b) as being anticipated by Grube et al (US 5,239,678).

3. Regarding claim 1, Grube et al teach a control method for a trunking system performing exchange between a wireless unit and the other communication party by means of control signal communication with the wireless unit by use of a control channel, and thereby allowing communication signal communication using a selected telephone communication channel between the wireless unit and the other

communication party, the control method comprising the steps of:

when all the telephone communication channels are busy when a new request for the telephone communication channel comes from the wireless unit, performing a telephone communication channel making processing for using the control channel as a telephone communication channel;

when any of the busy telephone communication channels is released when the control channel is used as a telephone communication channel, performing a control channel shifting processing for setting the released telephone communication Channel as a new control channel (see abstract), and by using all channels, notifying a plurality of the wireless units that the released telephone communication channel currently acts as a new control channel (Claim 10); and

when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the control channel (See column 10 lines 16-18, see also claim 3 and 4) and a usage state of neighboring channels in an overlapped manner (See column 4, lines 4-5, note that "Send ISW" are signal indication transmitted on the control channel, note also that each subscriber unit requesting Channels or using channels is correspondent to the adjacent channels) into information transmitted via the downlink (See column 4 lines 1-2, the downlink is the transmission from the controller's transceivers to the subscriber's units) communication of the control channel so as to notify a wireless unit currently making a telephone call using the control channel of these usage states (Note that in Grube, the central controller determines the states of communication channels and the active control channel among the channels, see

column 7 lines 53-55 and column 9 lines 63-64), to perform a control channel usage state notifying processing (See column 7, lines 13-16, the process by which the "Send ISW" signal is decided to be sent in the downlink on the control channel is usage state notifying processing to notify the state of control channel that was used as voice channel. Also, note that the fact that there is an indication sent to the mobile to indicate the new control assigned is a control channel usage state notifying processing step).

Response to Arguments

Applicant's arguments filed 02/26/2009 have been fully considered but they are not persuasive.

Regarding claim 1, the applicant submitted that Grube does not teach that when the control channel is used as a telephone communication channel, inserting information indicating a usage state of the control channel and a usage state of neighboring channels in an overlapped manner into information transmitted via the downlink communication of the control channel so as to notify a wireless unit currently making a telephone call using the control channel of these usage states to perform a control channel usage state notifying processing. The examiner respectfully disagrees because in Grube the central controller provides a notification through an indication sent to the wireless unit in order to keep it updated about the conditions of communication channels and their corresponding states (e.g., loading conditions, see claim 1) as well as informing the wireless unit of the newly assigned control channel (See claim 10). Such steps are or at least part of the control channel usage processing. The applicant submitted that the wireless unit waits for the particular control signal in a control channel

having the notifying information, however, at least the notifying processing is consistent with Grube disclosure (See claim 5, note that the indication is sent in the control channel). It appears that the applicant relied on the feature of negating the need for unnecessary scanning by receiving strictly the control signal, which reduces power consumption achieving the proposed objectives. However, it is noted that said feature upon which applicant relies is not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The applicant further submitted that Grube does not teach three kinds of processing steps: a telephone communication channel making processing step; a control channel shifting processing step; and a control channel usage notifying processing step. The examiner respectfully disagrees; As interpreted, Grube discloses the limitations in claim 1 including the steps of: a telephone communication channel making processing step; and a control channel shifting processing step (See claim 1-4) and as mentioned above in the rejection discloses the feature the control channel usage state notifying processing step. The applicant in the remarks only asserts that Grube does not teach such feature without providing a reason why such limitation could not be interpreted as such in Grube's cited features more particularly when the relied upon feature is not present in the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISSAM CHAKOUR whose telephone number is (571)

270-5889. The examiner can normally be reached on Monday-Thursday (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Perez Rafael can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/I. C. /
Examiner, Art Unit 2617

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617